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W.P.No.26656 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2026

CORAM

THE HONOURABLE MR JUSTICE **ABDUL QUDDHOSE**

W.P.No.26656 of 2025

and

W.M.P.Nos.29973 & 41369 of 2025

M/s.Kalima Granites,
Represented by its Partner Hameed Abdul Kader,
Old No.180, New No.96, 2nd Floor,
Shop No.1 and 2, Prakasam Salai,
Manady, Broadway,
Chennai – 600 001.

... Petitioner

vs.

1.The Commissioner of Customs (Imports),
Customs House,
Rajaji Salai,
Chennai – 600 001.

2.The Deputy Commissioner of Customs, BRC-DBK,
Customs House,
Rajaji Salai,
Chennai – 600 001.

3.The Assistant Commissioner (ARC),
Customs House,
Rajaji Salai,
Chennai – 600 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to Impugned Order-in-Original No.82384 of 2021 dated 27.03.2021 of the 2nd respondent and quash the same and consequently direct the respondents to refund the sum of Rs.1,05,000/- paid under TR-6 Challan in No.MCM26060775 dated 26.06.2025.

For Petitioner : Mr.A.Mohamed Ismail

For Respondents : Mr.J.Harikrishna
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned Order-in-Original, dated 27.03.2021 passed by the 2nd respondent on the ground of violation of principles of natural justice.

2. Under the impugned Order-in-Original, the 2nd respondent has confirmed the demand of Rs.12,98,588/- made against the petitioner in respect of the shipping bills, which are morefully disclosed in the impugned Order-in-Original. The 2nd respondent has also imposed a penalty of Rs.64,000/- on the petitioner for non-submission of Bank Realization Certificates (BRCs) for the subject shipping bills.



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3. The petitioner has categorically contended before this Court that they did not receive any show cause notice and they did not receive any personal hearing notices from the respondents before passing of the impugned Order-in-Original. The petitioner also claims that they came to know about the impugned Order-in-Original only after their subsequent exports were stopped/delayed on account of non-payment of the amounts morefully described in the impugned Order-in-Original.

4. A counter has been filed by the respondents before this Court denying the contentions of the petitioner. They state that since the petitioner has received the impugned Order-in-Original, it is presumed that they have also received the personal hearing notices as well as the show cause notice sent by the respondents prior to the passing of the impugned Order-in-Original.

5. However, as seen from the impugned Order-in-Original, it is clear that the show cause notice as well as the personal hearing notices said to have been sent by the respondents to the petitioner, were returned



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by the postal authorities with the endorsement 'left. The petitioner has also contended before this Court that the notices sent by the respondents were sent to the old address of the petitioner. A categorical statement has also been made by the petitioner that they did not receive the show cause notice as well as the personal hearing notices said to have been sent by the respondents. There is also no documentary evidence placed on record before this Court by the respondents to prove that the show cause notice as well as the personal hearing notices were in fact received by the petitioner. In view of the same, the submission made by the petitioner that they did not receive the show cause notice as well as the personal hearing notices, has to be accepted by this Court. No documentary evidence has also been produced by the respondents before this Court to prove that the impugned Order-in-Original was received by the petitioner. Therefore, the case of the petitioner that only when the petitioner's further exports were stopped/delayed by the Customs Department, they came to know about the impugned Order-in-Original has to be accepted by this Court.

6. In view of the above, since the respondents have passed the impugned Order-in-Original in violation of the principles of natural



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justice and since sufficient opportunity was not granted to the petitioner to raise all objections, the impugned Order-in-Original has to be quashed and the matter has to be remanded back to the very same respondent for fresh consideration on merits and in accordance with law by adhering to the principles of natural justice. The petitioner also contends before this Court that BRCs for the subject shipping bills in respect of which the impugned Order-in-Original has been passed against the petitioner are very much available with the petitioner. Hence, the petitioner must be granted an opportunity to produce all the BRCs for the subject shipping bills before the respondents in the interest of justice.

7. For the foregoing reasons, the impugned Order-in-Original, dated 27.03.2021 passed by the 2nd respondent is hereby quashed and the matter is remanded back to the 2nd respondent for fresh consideration, by treating the impugned Order-in-Original as show cause notice issued to the petitioner. The petitioner is directed to submit reply/objections to the same, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of the said reply within the stipulated time, the 2nd respondent shall pass final orders, on merits and in accordance with



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law, after affording personal hearings to the petitioner as per the circular issued by the CBIC, and after giving due consideration to the objections to be submitted by the petitioner, within a period of four (4) months thereafter.

8. With the aforesaid directions, this Writ Petition is disposed of. No Costs. In view of the above order being passed in this writ petition, no further order is necessary in the vacate stay petition filed in W.M.P.No.41369 of 2025 and therefore, the said miscellaneous petition is closed and consequently, the other connected miscellaneous petition is also closed.

19.01.2026

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
sp



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ABDUL QUDDHOSE. J.

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